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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/529,374	04/12/2000	HANS-BERTH KLERSY	3933.002	6961

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STEFAN A PENDORF
PENDORF & CUTLIFF
PO BOX 20445
TAMPA, FL 33622-0445

EXAMINER

HORTON, YVONNE MICHELE

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 05/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/529,374

Applicant(s)
HANS-BERTH KLEERSY

Examiner
YVONNE M. HORTON

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jan 21, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-14, 16, and 18-20 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-14, 16, and 18-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Apr 12, 2000 is/are a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on Apr 12, 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “the finished module” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show “the incurred part” as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the

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following is required: There is no support in the specification for a "transverse bearer" in the claims.

Claim Objections

4. Claim 20 is objected to because of the following informalities: in claim 20, line 8, --of-- should be inserted before "pillar" and "pillar" should be --pillars--; in line 14, "pillar" should be --pillars--; and in line 15, "include" should be --includes--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. Claims 2,5,8,10,11 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claims 2,5,11 and 13 recite the phrases "at least one other possible section", "at least one other conceivable section", "other conceivable sections" and "other sections"; respectively, these phrases render the claims indefinite in that it is not clear what is encompassed by the term "other possible or conceivable sections". The metes and bounds of "other possible or conceivable sections" have not been defined. Clarification is required.

7. Claims 8 and 10 recite the term "other conceivable materials", this phrase render the claims as being indefinite in that it is not clear what is encompassed by the term "other possible

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or conceivable materials". The metes and bounds of "other possible or conceivable materials have not been defined. Clarification is required.

8. In claims 5 and 8, it is not clear what the term "they" is referring (i.e. the sections of pillars, the pins or what?). Clarification is required.

Claim Rejections - 35 USC § 102

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

10. Claims 6,8,9-11,16,18-20 stand rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #4,346,540 to ANDERSON. In reference to claim 20, ANDERSON discloses a prefabricated building module (1) including a ceiling and a floor frame (4) wherein the floor frame (4) includes Z-shaped sections ^{see fig 2 & 5} (5) welded therein and forming flanges. The building of ANDERSON of also includes at least one pair of pillars having a first section (6) and a second section (7) connected by a transverse bearer (21, 25) and pins (18, 20) and the building includes exterior walls, windows and doors, column 7, line 57-64. A module is a series of standardized units for use together as a unit of architecture or furniture. The modules of ANDERSON are colored in red, see the marked attachment. Regarding claim 6, the sections (6,7) are connected to the floor frame (4) by gussets (36). In reference to claim 8, ANDERSON does not specifically state the use of St 37. He does; however, teach the use of steel and aluminum - "another conceivable material". In reference to claim 9, the combination of the sections (6,7) with the

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pins (18, 20) provides accurate vertical and horizontal structure by means of a simple plug in connection, for instance, pins (18) plugged in to plate (25). Regarding claims 10 and 11, ANDERSON does not teach the use of L-shaped St 37, St 52 or 250/75/5 steel sections. He does however teach the use of Z-shaped steel or aluminum sections - "other conceivable materials and sections". In reference to claim 16, the building of ANDERSON further includes a pair of beams (44,47) interconnected by screw-bolts. Regarding claim 18, the beams (4) act as both floor and ceiling beams and element 8 is the coupling device for the modular units. In reference to claim 9, the building of ANDERSON includes several stories, column 7, line 46.

Claim Rejections - 35 USC § 103

11. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

12. Claims 2,3,5,7,12,13 and 14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #4,346,540 to ANDERSON. As detailed in paragraph #19 above, ANDERSON discloses the basic claimed building except for the material of the building members. Regarding claim 2, ANDERSON discloses forming his frame members from steel or aluminum. However ANDERSON does not specifically state the use of "standardized C 160, St 37 or St 52 " steel. Even so, if C 160, St 37 or St 52 is "standard", then it would have been obvious to one having ordinary skill in the art to select this particular steel to form the floor frame. In regard to welding, ANDERSON column 2, line 13 discloses "screws or similar". Welding is an art

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recognized equivalent to screwing. Therefore, it would have also been obvious to one having ordinary skill in the art at the time the invention was made to weld the structure of ANDERSON. Further, beveling is old and very well known in the art. Although ANDERSON does not specifically detail beveling, beveling would also have been obvious to one having ordinary skill in the art at the time the invention was made. Regarding claim 3, again ANDERSON does not specifically detail welding, but the flange 40 is connected to the inside of the floor frame (4). Again, therefore, it would have also been obvious to one having ordinary skill in the art at the time the invention was made to weld the structure of ANDERSON. In reference to claim 5, ANDERSON does not specifically state the use of "MSH sections 60/60/5, 80/80/10, St 37 or St 52 " steel. It would have been obvious to one having ordinary skill in the art to select a known material on the basis of its suitability for the use intended as an obvious matter of design choice. For instance a stronger steel would be employed for parking garages. Whereas as steel having less strength would be employed for a conventional home. In further regards to claim 5 and regarding claim 7, the selection of the material used to form the building and the selection of the number of pillars and the static requirements are also governed by how the structure is intended to be employed. In reference to claim 12, welding and beveling is old and very well known in the art. ANDERSON column 2, line 13 discloses "screws or similar". Welding is an art recognized equivalent to screwing. Therefore, it would have also been obvious to one having ordinary skill in the art at the time the invention was made to weld the structure of ANDERSON. Although ANDERSON does not specifically detail beveling, beveling would also have been

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obvious to one having ordinary skill in the art at the time the invention was made. Regarding 13, ANDERSON does not teach the use C 60 or C 80 sections. ANDERSON does; however, teach the use of "other sections" (5) connected perpendicularly to the ceiling frame (4). ANDERSON column 2, line 13 discloses "screws or similar". Welding is an art recognized equivalent to screwing. Therefore, it would have also been obvious to one having ordinary skill in the art at the time the invention was made to weld the structure of ANDERSON. In reference to claim 14, as best understood, the ceiling frame (4) and the floor frame (4) are spaced a predetermined distance to create a twinned beam span. Although the distance of the span is not specified, the selection of this distance would have been an obvious matter of design choice, to one having ordinary skill in the art at the time the invention was made, depending upon the intended use of the structure. For instance, in order to accommodate large vehicles, a garage might have a greater span between ceilings and floors than a conventional home.

Response to Arguments

13. Applicant's arguments filed 1/21/03 have been fully considered but they are not persuasive.

In response to the applicant's argument that ANDERSON does not disclose the use of a finished modular 3-D frame, as defined earlier, a module is a series of standardized units for use together as a unit of architecture or furniture. The modules of ANDERSON are colored in red, see the marked attachment. ANDERSON also discloses that the building includes exterior walls,

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windows and doors, column 7, line 57-64. Further, the structure of ANDERSON is a modular unit in that the series of elements (i.e. the floor/ceiling (4), pillar sections (6,7), transverse bearer (21,25), pins (18,20), gussets (36) and exterior finishings are all assembled to form a module, as previously indicated in red, see the marked attachment.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.



Yvonne M. Horton

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May 4, 2003

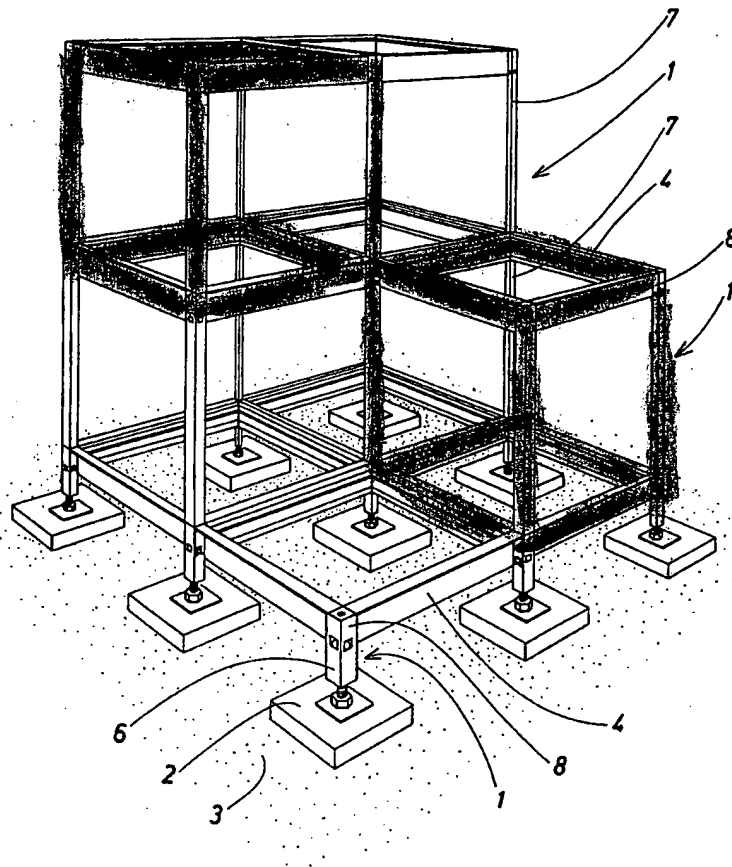


FIG. 1